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From:

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To:

Cc:

Subject: RE: 4 AARs files

If all the partners signed Forms 870-PT for the partnership year, the TMP AAR is a nullity since no partner would be a "party" subject to the request. See I.R.C. 6226(c) and (d) and 6228(a)(4).

This also would not be a TMP AAR under section 6227(c)(1) if it relates to partnership items flowing from another partnership. Since such items cannot be determined at the partner-level, we could not issue an FPAA at this level under section 6227(c)(2)(A)(ii). We would have to conduct a TEFRA proceeding for the source partnership instead.

If the AAR is valid, the net result would be a refund. Any accepted adjustment offsetting this refund could be made within the two year period of section 6228(a)(2), calculated from the last timely filed AAR. Under the Supreme Court precedent in Lewis v. Reynolds, offsets to refunds can be made after the period for assessment has expired since a reduction on a refund is not an "assessment" subject to the period for assessment. If for some reason, however, the partners had already reported the amounts correctly except for the last adjustment, so that an actual assessment would result, the assessment period can be extended under section 6501(c)(7) for claims filed within 60 days the expiration of the assessment period.